

DECISION



28707
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-215282.2

DATE: July 2, 1984

MATTER OF: Raymond Corporation

DIGEST:

1. Assertion that bidder cannot meet solicitation requirement of normally engaging in production of equipment to be purchased is different from general assertion that bidder is not capable of producing the item.
2. Protest allegation raised more than 10 days after protester knew of basis for protest is untimely under GAO Bid Protest Procedures.

The Raymond Corporation requests that we re-open our file on its protest against the award of a contract to Plymouth Locomotive under an invitation for bids issued by the Defense Logistics Agency.

Raymond originally filed its protest here on May 21, 1984. Its sole basis for protest was stated as follows:

"We seriously doubt Plymouth's capability of producing an acceptable product and protest any award to Plymouth."

We dismissed the protest by decision of May 29 because "[w]hether Plymouth has the capability of producing an acceptable vehicle is a matter of responsibility" and we generally do not review challenges to affirmative determinations of responsibility. Raymond now states that the basis for its protest is that the invitation required bidders to be normally engaged in the production of the type of equipment being purchased and that to the best of its knowledge Plymouth is not so engaged.

What Raymond now alleges is different from what it alleged originally. Its initial protest challenged only Plymouth's general capability to perform the contract. Raymond's more recent letter, however, suggests that the

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solicitation established a specific requirement that had to be met by the successful bidder and that Plymouth does not meet that requirement. These are different issues, and if indeed it was the latter issue that Raymond intended to raise, it should have done so at the outset. Raymond's first raising of this issue now, an entire month after it filed its original protest, is clearly untimely under our Bid Protest Procedures, which require protests such as this to be filed within 10 working days of when the basis for protest is known. See 4 C.F.R. § 21.2(b)(2) (1984).

Accordingly, we will not consider Raymond's complaint.

Harry R. Van Cleve

Harry R. Van Cleve
Acting General Counsel